

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

IN RE: 795,852.14 U.S. CURRENCY, ET AL.	:	APPEAL NO. C-090038 TRIAL NO. M-0601446
	:	
DENVER BAEHR,	:	<i>JUDGMENT ENTRY.</i>
Claimant-Appellee,	:	
	:	
vs.	:	
	:	
HAMILTON COUNTY, OHIO, SHERIFF,		
Respondent-Appellant.		

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Respondent-appellant, the Sheriff of Hamilton County, Ohio (“the sheriff”), appeals the trial court’s judgment denying his motion to dismiss contempt proceedings in an underlying civil forfeiture action. Because the trial court lacked subject-matter jurisdiction to further consider the forfeiture action when the parties had fully settled the case, we reverse the trial court’s judgment.

On May 20, 2008, the trial court journalized an agreed order in the underlying civil forfeiture case under which the sheriff agreed to return \$248,000 and miscellaneous personal property, including three rings, to claimant-appellee

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

Denver Baehr. In exchange, Baehr agreed to waive and release “any and all manner of actions, judgments, claims and demands whatsoever in law or equity, now and hereafter arising from the seizures of the other defendant property and the seized property, against any and all law enforcement officers of the Hamilton County Sheriff’s Office/Cincinnati Police Department Regional Narcotics Unit (RENU), the Hamilton County Sheriff or Hamilton County, Ohio individually and in their official capacities, their employees and agents.”

As of July 3, 2008, the sheriff had returned the money and all the personal property except three rings to Baehr. Because the three rings had not been returned, Baehr moved to enforce the agreed order and sought attorney fees. A hearing was held on August 18, 2008. Later that same day, the sheriff contacted the court and informed it that the three rings had been located. There is no dispute that the rings were eventually returned to Baehr the next day—August 19, 2008. On August 20, 2008, the court entered its decision on the record, ordering the sheriff to return the three rings to Baehr by August 29, 2008, and to appear before the court on that date to determine the following issues: (1) whether the sheriff should be held in civil contempt for failure to obey the agreed order, and if so, what, if any, sanctions should be imposed; and (2) whether the court should order the sheriff to pay Baehr’s attorney fees for having to ask the court to enforce the agreed order.

The contempt hearing was originally scheduled for August 29, 2008, but was continued until January 2009. In that month, the sheriff filed a motion to dismiss the contempt proceedings, claiming (1) that the sheriff was immune from contempt-related sanctions, and (2) that the trial court lacked subject-matter jurisdiction to consider any related matters to the underlying forfeiture action when the parties had

fulfilled all of their obligations under the agreed order. The trial court denied the motion to dismiss, and the sheriff has appealed.

In his first assignment of error, the sheriff maintains that the trial court erred by denying his motion to dismiss. Specifically, the sheriff argues that the trial court lacked subject-matter jurisdiction to conduct contempt proceedings when the terms of the agreed order between the parties had been satisfied. We find this argument persuasive.

Contempt is an issue where a court may exercise continuing jurisdiction depending upon the nature of the contempt proceeding. Where the parties have settled the underlying case that has given rise to a civil contempt motion, the contempt proceeding is moot, since the case has come to an end.² On the other hand, a court may consider the collateral issue of criminal contempt even after the underlying action is no longer pending.³

Here, a review of the record demonstrates that there is no dispute that the contempt proceeding was civil and not criminal. Further, the parties do not dispute that the three rings were returned to Baehr on August 19, 2008. Therefore, as of that date, the terms of the agreed order had been satisfied, and the case had been settled. Under these circumstances, the trial court lacked jurisdiction to journalize an entry on August 20, 2008, ordering the sheriff to show cause as to why he should not be held in contempt for failing to return the three rings. Furthermore, even if we were not to consider the attorney fees as contempt-related costs, the trial court still lacked jurisdiction to hear that matter because of the waiver contained in the agreed order.

² *State ex rel. Corn v. Russo*, 90 Ohio St.3d 551, 555, 2001-Ohio-15, 740 N.E.2d 265, citing *Gompers v. Bucks Stove & Range Co.* (1911), 221 U.S. 418, 451-452, 31 S.Ct. 492.

³ *Id.*

Accordingly, the first assignment of error is sustained.

Based upon the resolution of the first assignment of error, the sheriff's remaining assignments of error are rendered moot, and therefore we do not address them.

The judgment of the trial court is reversed, and this cause is remanded to the trial court for the entry of an order dismissing the proceedings for contempt and attorney fees.

Further, a certified copy of this Judgment Entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., DINKELACKER and MALLORY, JJ.

To the Clerk:

Enter upon the Journal of the Court on December 2, 2009
per order of the Court _____.
Presiding Judge